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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

BRIAN WILSON et al.,

Plaintiffs and Respondents,

v.

JOHN A. GLADYCH et al.,

Defendants and Appellants.

[And five other cases.\*]

G040292

(Super. Ct. No. 04CC06374)

ORDER MODIFYING OPINION AND  
DENYING PETITION FOR  
REHEARING; NO CHANGE IN  
JUDGMENT

It is ordered that the opinion filed herein on November 24, 2009, be modified as follows:

1. On page 5, in the fifth paragraph, beginning “Plaintiffs filed individual complaints,” delete the entire last sentence and replace it with the following sentence: “Gladych timely appealed after his motion for a new trial was denied.”

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\* Kurland v. Quintrall (No. 04CC06639); Barton v. Quintrall (No. 04CC06642); O’Neal v. Quintrall (No. 04CC06644); Nunes v. Homeowner’s Construction Defect Group, L.L.C. (No. 05CC06391); and Bond v. Quintrall (No. 05CC06393).

2. On page 16, at the end of the first paragraph, after the last sentence ending “in excess of \$50,000,” add as footnote 2 the following footnote, which will require renumbering of the subsequent footnote:

<sup>2</sup> Gladych contends Jon and Kelly Nunes are not entitled to any recovery in the case because they assigned their rights in the Ayala case to the buyers of their home. Gladych does not argue that he was not representing the Nuneses in the Ayala case, that they were not still a part of the group of plaintiffs to whom the settlement offer was made by Pardee, or that a cost judgment was not entered against the Nuneses because of their continued participation in the Ayala case. The Nuneses’ separate agreement with the buyers of their home does not affect the fact that they were damaged as a result of Gladych’s legal malpractice.

3. On page 17, delete the entire second paragraph, beginning “The problem with Gladych’s argument,” and replace it with the following paragraph:

The problem with Gladych’s argument on appeal is that he failed to identify in his opening appellate brief any issue which was omitted from or given “short shrift” in the statement of decision. (*RLI Ins. Co. Group v. Superior Court* (1996) 51 Cal.App.4th 415, 437 [appellate court not required to consider points not supported by argument].) In his reply brief on appeal, Gladych did identify several issues he contended had been omitted from the statement of decision. Each of these issues has been addressed in this opinion, and decided against Gladych. We find no error.

4. On page 17, delete the third paragraph, beginning “At oral argument,” which continues to page 18, and replace it with the following paragraph:

Gladych contends that the trial court did not properly respond to his objections concerning agency.

His argument is without merit because Gladych owed independent duties to Plaintiffs, as discussed in detail, *ante*. If Gladych complains of the omission of a factual issue relating to agency, our analysis of his independent duties addresses that issue. If Gladych complains about an omission of a legal issue, that objection cannot be waived; we have thoroughly addressed and rejected his legal arguments on appeal.

These modifications do not effect a change in the judgment. The petition for rehearing is DENIED.

FYBEL, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

ARONSON, J.